REMARKS

Claims 1-52 are pending in the application for the Examiner's review and consideration.

CLAIM REJECTIONS UNDER 35 U.S.C. §103

Claims 1-52 were rejected under 35 U.S.C. §103(a) as being allegedly unpatentable over Wilson *et al.* ("Wilson") in view of U.S. Patent No. 3,929,678 to Laughlin *et al.* ("Laughlin") in view of U.S. Patent No. 3,959,461 to Bailey *et al.* ("Bailey I") in view of U.S. Patent No. 3,299,112 to Bailey *et al.* ("Bailey II"). Applicants respectfully traverse the rejection.

On pages 5-7 of the Office Action, it alleges that the present invention is obvious to one of ordinary skill in the art. Applicants respectfully submit that Wilson in view of Laughlin in view of Bailey I in view of Bailey II does not disclose or suggest each and every element of the invention. Further, Applicants submit that there is no motivation to combine these references, as hindsight is being used to reject the claims as obvious.

The Office Action is improperly using hindsight to reject the claims as obvious. Hindsight cannot be used to reject the claims as obvious. *In re Sernaker*, 702 F.2d 989, 994 (Fed. Cir. 1983); *In re Rinehart*, 531 F.2d 1048 (CCPA 1976); *In re Imperato*, 486 F.2d 585 (CCPA 1973); *In re Adams*, 356 F.2d 998 (CCPA 1966). It is legally improper to select from the prior art the separate components of the inventor's combination, using the blueprint supplied by the inventor. *C.R. Bard Inc. v. M3 Systems, Inc.*, 157 F.3d 1340, 1352 (Fed. Cir. 1998) citing *Fromson v. Advance Offset Plate, Inc.*, 755 F.2d 1549, 1556 (Fed. Cir. 1985) (holding the prior art must suggest to one of ordinary skill in the art the desirability of the claimed combination) (emphasis added).

Applicants respectfully submit that the Office Action is using the disclosure of the present invention as a "recipe" in order to reject the present invention. The present invention discloses, among other elements, a composition suitable for capturing unwanted molecules, the composition comprising functionally-available cyclodextrin, a cyclodextrin-incompatible surfactant, and a cyclodextrin-compatible surfactant wherein the concentration of functionally-available cyclodextrin is at least about 0.001%. There is absolutely no motivation to combine the above-cited references such that they disclose or suggest the present invention.

As the Office Action suggests, obviousness can only be established by combining or modifying the teachings of the prior art to product the claimed invention where there is some teaching, suggestion, or motivation to do so found either in the references themselves or in the knowledge generally available to one of ordinary skill in the art. The present invention is related to the capture of molecules, particularly malodorous molecules. The combination of disclosures cited by the Office action include a spectral displacement study of binding constants of cyclodextrin (Wilson), Quaternary ammonium salts for hair cream rinse formulations (Bailey), detergent compositions with specified ethoxylated zwitterionic compounds for particulate soil removal (Laughlin) and silicone wetting agents in aqueous systems (Bailey). It is highly unlikely that one of ordinary skill in the art would have motivation to combine these disclosures, as there is absolutely no teaching or suggestion to combine these references to form the present invention, especially as the technologies cited against the present invention are in various technical fields. As put forth above, such hindsight reconstruction amounts to utilizing the present combination of elements as a blueprint.

For the above reasons, Applicants respectfully request that the rejections made be reconsidered and withdrawn.

THE DOUBLE PATENTING REJECTION

Claims 1-52 were rejected under the judicially-created doctrine of obviousness-type double patenting as being unpatentable over claims 1-21 of U.S. Patent No. 5,578,563 to Trinh et al. ("Trinh"). Applicants respectfully traverse the rejection.

On page 7 of the Office Action, it alleges that although the claims are not identical, they are not patentably distinct from each other because Trinh *et al.* do teach a composition comprising CD and a surfactant. Applicants respectfully submit that the present invention discloses compositions comprising functionally available cyclodextrin, a cyclodextrin-incompatible surfactant, as well as a cyclodextrin compatible surfactant. Trinh, as recited in the Office Action, discloses compositions comprising cyclodextrin and a surfactant. The Office Action suggests that Trinh states that the surfactant can be a surfactant that is cationic, nonanionic, amphoteric, zwitterionic, anionic polymeric, or cationic polymeric. Applicant respectfully submits that cyclodextrin capability encompasses more that whether

a surfactant fits in the above mentioned groups. Indeed, the present invention discloses groupings of anionic cyclodextrin incompatible surfactants (Specification, page 8 line 31) and anionic cyclodextrin compatible surfactants (Specification, page 21, line 19). As the present invention discloses compositions having a cyclodextrin incompatible surfactant, as well as a cyclodextrin compatible surfactant, Applicants respectfully submit that the present invention is patentably distinct from Trinh. For the above reasons, Applicants respectfully request that the rejection made be reconsidered and withdrawn.

Claims 1-52 were rejected under the judicially-created doctrine of obviousness-type double patenting as being unpatentable over claims 1-17 of U.S. Patent No. 6,436,442 to Woo et al. ("Woo"). Applicants respectfully traverse the rejection. However, in order to expedite prosecution, a Terminal Disclaimer is attached. The terminal disclaimer obviates the rejection of claims 1-52 under the judicially-created doctrine of obviousness-type double patenting. For the above reasons, Applicants respectfully request that the rejection made be reconsidered and withdrawn.

Claims 1-52 were rejected under the judicially-created doctrine of obviousness-type double patenting as being unpatentable over claims 1-59 of U.S. Application No. 09/855,816. As this is a provisional rejection, Applicants respectfully request that this rejection be held in abeyance until the conclusion of prosecution.

CONCLUSION

In view of the foregoing amendments and accompanying remarks, reconsideration of the application and allowance of all claims are respectfully requested. No fee is believed to be due for the amendments herein. Should any fee be required, please charge such fee to Procter & Gamble Deposit Account No. 16-2480.

Respectfully submitted,

By _____

Mark A. Charles
Attorney for Applicant
Registration No. 51,547
Tel. No. (513) 627-4229

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